Supreme Court, U.S.
FILED
05-868 NOV - 9 2006
OFFICE OF THE CLERK

No.

In The

United States Supreme Court

Maurice Wayne Jones and Dorenda Price Jones,
Petitioners,

v.

Fred Bass,
Respondent,

v.

Ron Thomas,
Respondent,

v.

Gerald Goulding,
Respondent.

On Petition For Writ of Certiorari
To The United States Court of Appeals
for the Tenth Circuit

PETITION FOR WRIT OF CERTIORARI

Appearing without agent or representation
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QUESTIONS PRESENTED

A "Notice of Levy" is served by an Internal Revenue Service agent on an entity, such as a Bank, with the purpose of seizing funds from a Bank client. The Notice of Levy cites as its authority 26 USC § 6331 LEVY AND DISTRAINT paragraphs (b) and (c) but the Notice does not cite paragraph (a) which contains the critical scope and definition.

> "*Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer .... of such officer, employee, or elected official.*"

The following questions are presented;

1. "Does USC 26 Section 6331 authorize a levy or notice of levy on the rewards of labor of a natural human being in the private sector who is living and working in one of the 50 states and who is not an "officer, employee, or elected official, of the United States" as described in the deliberately omitted paragraph (a)?"

2. Does the specific mention in 26 USC § 6331(a) of upon what "levy may be made" and upon whom "notice of levy" may be served create the legal presumption that levy or notice of levy may not be made on something or someone who does not fit that expressed description? (*expressio unius est exclusio alterius*)

3. Does an Internal Revenue Service Agent commit fraud by concealing a material fact when serving a "Notice of Levy" which omits paragraph (a), the scope and authority of levy?

PARTIES TO THE PROCEEDINGS

The Petitioners/Plaintiffs include Maurice Wayne Jones and Dorenda Price Jones.

The Respondents/Defendants include alleged IRS agent FRED BASS, Bank President Ron Thomas, and Bank attorney Gerald Goulding.

RULE 29.6 STATEMENT

Pursuant to Supreme Court Rule 29.6, petitioners respectfully state as follows:

Maurice Wayne Jones and Dorenda Price Jones are natural human beings and American Citizens, living in Wyoming, having Constitutional Rights and are not corporations or any other type of trade or business entity.

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WRIT OF CERTIORARI

Petitioners Maurice Wayne Jones and Dorenda Price Jones respectfully petition this Court for a writ of certiorari for the purpose of establishing a nationally uniform understanding of the scope of 26 USC § 6331 and to review the judgment of the United States Court of Appeals for the Tenth Circuit. It is in the public interest that the questions be decided.

OPINIONS AND ORDERS in APPENDIX

The Tenth Circuit Court of Appeals issued its ORDER AND JUDGMENT on Sept 2, 2005, No. 04-8113 (D.C. No. 04-CV-153-WFD) (D. Wyo.). Petitioners subsequently filed a Petition for Rehearing, which was denied by the Court on September 28, 2005.

The United States District Court for the District of Wyoming issued its JUDGMENT IN A CIVIL CASE on September 30, 2004, Case No. 04-CV-153-D.

The original COMPLAINT was filed in the District Court of the Third Judicial District in and for Lincoln County, Kemmerer, Wyoming on March 30, 2004 Case No. 11456, which was subsequently removed by the United States District Court, Casper, Wyoming.

JURISDICTION

As the Court of Last Resort, this United States Supreme Court has jurisdiction and authority to correct abuses of due process perpetrated by an alleged IRS agent with the complicity of Wyoming federal District Court and the Tenth Circuit Court of Appeals. The critical issue in this case, the validity of the seizure document "Notice of Levy", which quoted federal statute 26 USC § 6331 for its authority, was not addressed by either Court. In fact, the District Court, in a

15 page Order, went out of their way to avoid commenting on 26 USC Section 6331. This injustice must be remedied. Petitioners have maintained from inception that the proper jurisdiction is the District Court of the Third Judicial District, Kemmerer, Wyoming, based on the waiver of sovereign immunity by the alleged agent when he violated statutes, rules, and regulations by serving a Notice on entities not within the scope of that Notice, thus committing fraud and depriving Petitioners of property without due process of law.

CONSTITUTIONAL and STATUTORY PROVISIONS AT ISSUE

United States Code Title 26 Section 6331 is entitled DISTRAINT AND LEVY. The Internal Revenue Service and its alleged agents routinely send a "Notice of Levy" to business entities, such as financial institutions, and quote paragraphs (b) and (c) of Section 6331 on their Notice, knowingly and deliberately omitting paragraph (a). Paragraph (a) describes the scope of levy and the scope of notice of levy. This glaring omission appears to fit the classic definition of Fraud; *"A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment."* (Black's Law Dictionary, Sixth Edition, Page 670)

United States Constitution Amendment 5 (Article V of the Bill of Rights); The deliberate omission of said paragraph (a) of 26 USC §6331 results in depriving clients of financial institutions, such as Petitioners, of their property without due process of law and entraps financial institutions into being accomplices in the fraud.

STATEMENT OF THE CASE

On March 17, 2004, the First National Bank of Afton, Wyoming received a document titled "Notice of Levy" from alleged IRS agent Fred Bass, instructing said bank to seize funds from the account of Maurice Jones to satisfy an alleged tax bill. The "Notice of Levy" served on the Bank quoted 26 USC § 6331 paragraphs (b) and (c) as authority to levy. Paragraph (a) of said statute was not contained in said Notice. Mr. Jones, Petitioner, showed Bank President Thomas and Bank Attorney Goulding the Internal Revenue Code book and they read the missing paragraph (a) which defines the scope and jurisdiction and authority to levy. The missing paragraph (a) reads,

> "*Levy may be made upon the accrued salary or wages of any officer, employee, or elected official, of the United States, the District of Columbia, or any agency or instrumentality of the United States or the District of Columbia, by serving a notice of levy on the employer .... of such officer, employee, or elected official.*"

This cast serious doubt upon the applicability of the statute and seizure instrument to either Petitioners or to Bank Defendants. Petitioner Jones averred to the Bank President and Bank Attorney that he was not in any way described in the jurisdictional statement of said statute, nor was the Bank the "employer" upon whom notice of levy may be served. Petitioner Jones requested the Bank send a letter of inquiry to alleged IRS agent Bass asking for clarification before sending Petitioner's funds to the IRS. Bank officials declined to so do, thus this lawsuit.

The scope and application of the instrument, "Notice of Levy", used to effect the seizure of Petitioner's funds has not been addressed at all in this case by either the US District Court or the Appellate Court, even though that was a focal

point of the suit. Petitioners claimed that if the statute does not pertain to them, then the alleged agent was outside of the bounds of his authority and thus has no jurisdiction over Petitioners and therefore federal courts do not have jurisdiction over this case.

Justice and due process have been denied with the jurisdiction issue as well as other issues. For the sake of brevity and in presenting an issue which is in the public interest and has far-reaching applications, Petitioners ask only for clarification regarding on what or to whom 26 USC § 6331 applies. It is well established by the plain language in 26 USC §6331(a) that it applies to employees, officers, and elected officials of the federal government. In a search, Petitioners found no court rulings relating to 26 USC § 6331 regarding natural human beings in the private sector. The only related case we can find is Sims v. United States, 359 US 180 (1959) wherein the Court said, *"Sections 6331 and 6332 authorize a levy on the accrued salaries of the employees of a State to collect federal income taxes."*

The question in this Petition instance is; "Does USC 26 Section 6331 authorize a levy on the bank deposit of a natural being in the private sector living and working in one of the 50 states who is not an "officer, employee, or elected official, of the United States" as described in the deliberately omitted paragraph (a)?" Petitioner declared to alleged IRS agent Bass prior to seizure, to the Bank at the time of seizure, and to the Courts following seizure that Petitioner funds in that bank were not "*accrued salary or wages*" of a federal employee as described in the statute but instead were the fruits of Petitioners' labor, which property is not subject to the levy as described in the Title 26 statute quoted. The alleged "tax bill" had been previously Contested by Petitioners and the IRS failed to rebut and prove up their claim and therefore Defaulted. If said statute does not apply to Petitioners or to Bank Respondents then fraud has been

committed and this case must be remanded to Wyoming state court for trial.

Petitioners use the term "alleged agent" because Petitioners have repeatedly, for three years, requested/demanded credentials of alleged agent FRED BASS or any documents proving that BASS has delegation of authority and jurisdiction, or indeed that he even exists as per Federal Crop Insurance v. Merrill, 33 U.S. 380 at 384 (1947)

> "*Anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of this authority.*"

Alleged agent BASS and the IRS refused and still refuse to produce any credentials. The Courts have ignored Petitioners' requests/demands to see BASS' credentials. This appears to be further evidence of fraud in this case.

Petitioners filed suit in Wyoming State District Court after having exhausted all administrative remedies. Petitioners believe the case was unlawfully removed from Wyoming jurisdiction by federal District Court as per

> People v. Godfrey, 17 Johnson 225, NY *"that to bring the offense within the jurisdiction of the courts of the union, it must have been committed out of the jurisdiction of any state."*

And

> Brooks v. Yawkey 200 F. 2d. 633 *"...Federal jurisdiction cannot be assumed, but must be clearly shown."*

CONCLUSION

The opinion of the Supreme Court in this case would establish a nationally uniform understanding of the scope and application of 26 USC § 6331 and is in the public interest.

The Petition for Writ of Certiorari should be granted.

Respectfully submitted January 10, 2005

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APPENDIX A – ORDER AND JUDGMENT OF THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT AFFIRMING THE JUDGMENT OF THE DISTRICT COURT FILED SEPTEMBER 2, 2005

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

No. 04-8113
(D.C. No. 04-CV-153-WFD)
(D. Wyo.)

Maurice Wayne Jones and Dorenda Price Jones,
Plaintiffs-Appellants,
v.
FRED BASS; RON THOMAS; and GERALD GOULDING,
Defendants-Apellees.

ORDER AND JUDGMENT*
Before SEYMOUR, KELLY, and MURPHY Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1 (G). The case is therefore ordered submitted without oral argument.

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*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.